

94 Carlton Bldg. Canada M3
286, Biogr. can., N° 7

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HON. JOSEPH AMABLE BERTHELOT.

From *Cyclopædia of Canadian Biography*.

[SECOND SERIES.]

TORONTO, 1887.

Berthelot, Hon. Joseph Amable, Judge of the Superior Court of Montreal. This learned judge was born on the 8th of May, 1815, at St. Eustache, county of Two Mountains, by the marriage of Joseph Amable Berthelot, notary, and Dame Marie M. Hervieux. Mr. Berthelot's father was from Quebec, where he finished his classical studies in 1796, having been the classmate of the late Hon. Judge Thomas Taschereau, the father of his eminence the Cardinal, and also that of the late Hon. Judge Vanfelson, who died in Montreal. Judge Berthelot began his Latin course in 1824, and finished it on the 9th of June, 1832, when at the age of seventeen. The course that year was suddenly terminated, on account of the cholera, the professors having deemed it prudent to send back the scholars to their families in the month of June. In the month of October of the same year he began his legal studies, being indentured with the late Hon. Sir L. H. Lafontaine, who had married his cousin in 1830. Sir George E. Cartier, who was his classmate at college, also commenced studying law in 1832, in the office of the late Étienne E. Rodier, advocate, M.P.P. for the county of l'Assomption. After being admitted to the bar in November, 1836, he became the partner of Mr. Lafontaine, and continued to practise his profession in such partnership until July, 1853, when Mr. LaFontaine was appointed chief justice of the province of Lower Canada on the demise of the late Sir James Stuart. A few days after, Mr. Berthelot entered into partnership with his friend, the late Sir George E. Cartier, and continued this partnership until he was appointed assistant judge of the Superior Court, succeeding the late Hon. C. D. Day, who was appointed codifier in February,

1854. On June 1st, 1854, his resignation, having been accepted by the government, in 1860 Judge Berthelot was immediately appointed permanent judge of the Superior Court. On this occasion, in December, 1860, the bar of Montreal held a meeting in order to express publicly their satisfaction of the appointment of Judge Berthelot to the bench, and adopted resolutions, copies of which were transmitted to the judge, and also published in the newspapers of the day, amongst others in *La Minerve*. These resolutions read as follow :

At a special meeting of the members of the bar of Lower Canada, section of this district, which was held on Wednesday, the 12th of December instant, it was unanimously resolved :

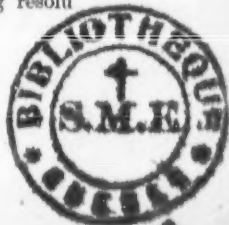
1. Moved by Henry Stuart, seconded by Gédéon Ouimet, M.P.P., That the bar of Montreal has seen with real pleasure the promotion of the Honourable J. A. Berthelot, whose talents, high sense of honour, integrity, conscientious work and services already rendered as assistant judge, are a sure guarantee of the faithfulness with which he will fulfil the difficult duties of the new office which he has just entered as permanent judge of the Superior Court.

2. Moved by Andrew Robertson, seconded by C. A. Leblanc, That as citizens, and with due regard to public interest, the barristers of Montreal cheerfully greet the appointment of Mr. Justice Berthelot, and as his *confrères*, they are highly honoured as a body by this new appointment.

3. Moved by the Honourable T. J. J. Loranger, seconded by J. C. Daly, That copies of the foregoing resolutions be transmitted by the *batonnier* and secretary to Mr. Justice Berthelot, and that the secretary be authorized to publish them in the city papers.

(Signed), ROBERT MACKAY,
Batonnier,
(Signed), MEDERIC MARCHAND,
Secretary.

The French paper, *L'Ordre*, made the following comments on the foregoing resolutions :



We have already fully expressed our opinion on this subject, and to-day we are happy to see the bar of Montreal confirming our appreciation of this appointment.

During the time that Mr. Berthelot practised at the bar, his *confrères* elected him twice to the dignity of *batonnier* in 1858 and 1859. Whilst he exercised his duties of judge in Montreal, in the space of fifteen years, he was called upon to perform the same duties of judge at Ste. Scholastique, district of Terrebonne. In February, 1872, he was invited by the members of the bar of that district, numbering seventeen, to a complimentary public dinner by the following resolutions, which were then published in the press :

At the meeting of the bar of the district of Terrebonne, held at Ste. Scholastique on the 7th of February, 1872, it was resolved :

1. Moved by J. H. Filion, seconded by Mr. Boisseau, that Mr. Burroughs be appointed chairman, and Mr. Rochon be requested to act as secretary.

2. Moved by Mr. Wilfrid Prévost, seconded by J. A. H. Mackay, That a public dinner be given to the Hon. J. A. Berthelot, by the bar of the district of Terrebonne, as an acknowledgment of our esteem and respect for his honour.

3. Moved by J. A. H. Mackay, seconded by J. H. Filion, That the chairman and Mr. Wilfrid Prévost be delegated to interview his honour, and express the desire of the bar to give him a dinner, and in order that he may fix the date that he will find convenient.

(Signed) C. S. BURROUGHS,
Chairman.
(Signed) A. ROCHON,
Secretary.

Judge Berthelot regretted that he could not accept a demonstration which would be so creditable for himself from the bar of the district of Terrebonne, being on the eve of sailing for Europe, during a leave of absence which had been granted to him by the Government for recuperating his health, which was slightly impaired by his strict attendance to his judicial duties. Before his appointment to the bench in 1859, he had been called upon to fulfil the office of assistant judge in Montreal for six months, in 1855 and 1856, during which time the judges of the province had to act as such during the sittings of the Seigniorial Court for Lower Canada. On the 28th of November, 1875, his Lordship Archbishop Bourget, intimated to Judge Berthelot that he had just received from Rome a letter from his Excellency Monsignor Roncetti, ablegate, informing him that His Holiness Pius IX., had been pleased to appoint him Command-

er of the Order of St. Sylvestre, by an apostolical writ, dated the 24th of September then last, enclosed with the Ablegate's letter, adding that His Holiness had been so kind and so generous that through the agency of His Eminence Cardinal Antonelli, he had consented to give to Mr. Berthelot himself the decoration of the Commandery of the Order of St. Sylvestre, which he had confided to the care of Mr. Harel, procurator of the archbishop. The newspaper, *Le Monde*, of Paris, France, on the 28th of December, 1875, noticed this honour granted to Judge Berthelot in the following terms :

We do not doubt that the appointment of Judge Berthelot will be hailed with pleasure by the numerous friends that he has in France, who have had occasion to appreciate, during his several visits to our continent, how he was worthy in all respects, of the high distinction which had been conferred upon him.

His Excellency, Monsignor Roncetti, in a letter bearing date of February, 1876, wrote as follows to Judge Berthelot :

MY DEAR AND HONOURED COMMANDER,—With your very kind letter of the 20th of January, for which I am very thankful, I have also received, through the agency of Mr. Harel, your letter for his Eminence Cardinal Antonelli, who entrusted me with his answer, which you will find herewith :—"In renewing my sincere congratulations, I beg to present my homage to the most excellent lady Madame Berthelot, to your dear children and to accept in the same time the assurance of my most perfect esteem and profound respect." Expecting with the greatest impatience the day when I will see you in Rome, I have the honour to be, my dear and honoured Commander,

Your most humble and devoted servant,
CESAR RONCETTI.

In the same month of February, 1876, Judge Berthelot was in receipt of a letter from his Eminence, Cardinal Antonelli, in Italian, which read as follows :

ILLUSTRISIME SIGNOR,—I have presented, with great pleasure, to the Holy Father the expressions of gratitude which your illustrissime lordship has given me in his letter of the 20th of January last, because our Holy Father had conferred upon you the Commandership of St. Sylvestre, which you acknowledged to be entirely due to the apostolic benevolence. His Holiness was raptured when he saw these expressions of veneration and love for his venerable person, and could not refrain from answering to them by words of gratitude, and by giving you, from the bottom of his heart, his apostolic benediction. Having thus accomplished the wishes which you expressed to me, I have the honour to be of your illustrissime lordship

Yours,

Sec. GIACOMO ANTONELLI.

The following particulars about the knight-hood are found in the supplement of "Bouillet's Dictionary," page 42 :

ORDER OF THE GOLDEN SPUR.

A Roman order founded by Paul III., in 1554, or by Pius IV. in 1559, has been established, according to some writers, by Constantine as far back as 312, to commemorate his victory over Maxentius, and approved since then by the Pope St. Sylvestre. Its object was to reward civil merit, admitting only noblemen ; it could also be conferred on foreigners. Some princely families of Rome and a few high dignitaries could confer the order, which soon occasioned serious errors. Gregory XVI. reformed the order in 1841, and gave the name of St. Sylvestre, or the Reformed Golden Spur. The knights wore a golden cross with eight points, and white enamelled, showing the portrait of St. Sylvestre. It is worn with a ribbon striped red and black ; between the branches of the cross hangs a golden spur. Before the Reformation, when England was Catholic, and when the relations of that country with the court of Rome were uninterrupted, as soon as a chief justice of the Court of King's Bench, was appointed, the writ of commandment of the order of St. Sylvestre was forwarded to him by the Pope, and he wore on his chain of office the letters S. S. Since England has become Protestant, the writ is not sent to that country ; nevertheless, when a new chief justice is appointed, and when he orders at the court goldsmith the chain of office which he wears on his neck, he receives it still with the same initials S.S., as in olden times.

This fact is warranted by photographs of Chief Justices Bovill and Campbell, which Judge Berthelot has in his possession, and which were given him by his friend, Judge Mackay.

In a legal review, entitled *Albany Law Journal* for 1874, in the issue of the 8th of August, we find an article headed, "Article on Campbell's Lives of Chief Justices," with the following comments :

And while there were among the wearers of the collar of S. S., men whose lives are neither helpful nor inspiring, there were many of whom it is good to read.

In Canada the first person who received a writ of commandment of St. Sylvestre, was the late Sir L. H. Lafontaine, chief justice, in the year 1853.

Judge Berthelot was appointed in 1875, as above mentioned. In 1876, after eighteen years of judicial services, he asked and obtained his superannuation, and on this occasion the *Montreal Gazette*, of the 28th of August, 1876, published the following :

The Ottawa Government has at last come to a determination which enables it to accept the resignation of Mr. Justice Berthelot. Nearly a

year has elapsed since it was generally understood that Mr. Justice Berthelot desired to obtain that relaxation from judicial duties to which twenty years service had fairly entitled him, but as our readers are aware, ministers were seriously embarrassed in the disposal of this piece of patronage, and the learned judge was requested to defer his proposed relinquishment of official duties. Before reference is made to his successor, it is but justice to say a word or two respecting Hon. Judge Berthelot. If the hon. judge has not obtained the first rank of judicial fame, no one will venture to deny that he has occupied a most honourable position on the bench of this province, or that his services have been of a highly beneficial character. It were scant justice to say that his character has been constantly honourable, his impartiality unchallenged, and his intelligence of the most vigorous type. Laborious without complaining, diligent without ostentation, Mr. Justice Berthelot has never proved unequal to the arduous demands of his position. His knowledge of real estate and insurance law, extensive and profound, and his decisions upon these, as well as many other branches of the law, were received with the utmost respect and confidence. In determination of cases in which juries are more or less liable to be influenced by sympathy for the sufferers, he did not hesitate to adhere to those leading principles which have been consecrated by time and experience, in preference to yielding to impulses which might create a dangerous precedent. In fine, Mr. Justice Berthelot's judicial career has been conscientious, able and upright, and entitles him to the gratitude of his countrymen.

Le Nouveau-Monde, on 29th of August, 1876, reprinting the above article from the *Gazette*, accompanied it with the following remarks :

This testimony is corroborated by all those who had occasion to appreciate personally the talents, the carefulness, the integrity, and the knowledge displayed by this hon. judge in the exercise of his judicial duties. Some of his decisions in cases of the highest importance fully demonstrated the fact, that he was imbued with a sound judgment and a knowledge of jurisprudence and statutory laws sufficient to make his reputation and authority cope with that of the most distinguished judges who have illustrated our Canadian bench. Liberated from the toils and fatigues of the important position which he has just vacated, Judge Berthelot, we hope, will not withdraw entirely from public life, and the population of this province could still benefit by his great experience, his serious studies, and his deep knowledge of men and things, which he has acquired during more than twenty years on the bench.

Judge Berthelot has since remained in private life, without an occasion to make himself useful to his country. Whilst he was practicing at the bar, he had been often requested to enter parliament by several counties of the district of Montreal, and in 1858, when the division of Alma was to elect its first representative in the Legislative Council, he

had been requested to be a candidate by a great number of the citizens of the division, one of the two candidates at that time being willing to withdraw in his favour if he accepted the candidature. But Mr. Berthelot had always refused, in order that his partners and friends, Sir L. H. Lafontaine and Sir George E. Cartier, be not deprived of the services he was rendering them, while these statesmen were engaged in political life, with so much credit to themselves and satisfaction for the country. Mr. Berthelot since that time has travelled several times in England, France and Italy, where he has made several friends, with whom he still keeps an active correspondence. In conclusion, we may say that during the second rebellion, in November, 1838, Mr. Berthelot was arrested and sent to gaol without cause or warrant, with many of the best citizens of Montreal, viz., Messieurs Lafontaine, the two Messieurs Viger, M. Papineau, a brother of the speaker, Dr. Lusignan, Mr. Fabre,

Mr. DeBoucherville sr., Amable Badeaux, his cousin, and his young friend Dr. Perreault. The latter was soon let free to attend his young wife. Mr. Berthelot, having enquired by a letter addressed to Colonel Goldie, secretary of his Excellency the Governor, Sir John Colborne, for the cause of his arrest, expressing by his letter his readiness to be brought to trial, received no written answer, but a few days after was invited to leave the gaol and go to his home. At the same time he had also written to the late Andrew Stuart, solicitor-general, residing at Montreal, with whom he was well acquainted, representing in proper terms against his unjust detention, and always thought that he owed much to the interest of Mr. Stuart for his immediate release. Of Mr. Stuart, the solicitor-general, much can be said; that he was at least equal, if not superior to his brother, the late Sir James Stuart, chief justice of Quebec.

TORONTO, 1887.